

REMARKS

Claims 1-7 and 9-12 are pending in the application. Applicant Appealed to the Board of Patent Appeals and Interferences in response to the Office Action mailed 01 July 2009. In response to the Appeal filed 02 October 2009, The Examiner issued an Examiner's Answer that introduces new grounds of rejection on 29 December 2009. The present amendment is filed in response to the new grounds of rejection contained in the Examiner's Answer.

Claim 1 is amended to replace the term "commonly actuatable" as applied to a cold air combination switch with a corresponding description of the term: by direct contact between the cold air combination switch and one finger of a hand on either the first handle grip (8) or the second handle grip (9). Support for the amendment may be found, for example, in Figures 6-8 in the specification and in the claims as originally filed.

Claim 7 is amended to recite "and further comprising" language. Support for the amendment may be found in the claim as originally filed.

No new matter is added.

Claims Rejections 35 U.S.C. 102

Claims 1 and 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Thaler et al. (US 5,727,331). The Examiner's rejection has been carefully considered.

Claim 1, as amended, recites the limitation that a cold air combination switch is configured to be actuated selectively from the first or second handle grip 8, 9, by direct contact between the cold air combination switch and one finger of a hand on either the

first handle grip (8) or the second handle grip (9). The amended claim language eliminates any possible ambiguity regarding the presently claimed configuration of the cold air combination switch in comparison with the two-switch configuration disclosed by Thaler et al.

Thaler discloses a collar plus trigger arrangement in Figures 1-4 wherein the collar serves as a second mechanical switch that is a separate entity from the actual electronic switch responsible for controlling the air flow rate and/or temperature of the dryer. In column 1, starting at line 53, it is unambiguously disclosed that the pistol shaped hair dryer according to Thaler is provided with two switches. The first switch is located on at the trigger position and the second switch is mounted on the barrel. The second switch identified as a switch that mechanically activates the first switch through a collar arrangement surrounding the barrel. The requirement for two separate switches is consistent with the Thaler disclosure starting at line 61, in which a second aspect of the described invention is provided with two electrical switches. The two electrical switches are located at the trigger position and on the barrel and correspond to the locations of the electrical (first) switch and the second (mechanical) switch in the collar plus trigger arrangement. The requirement for the second mechanical switch for activating the electronic trigger switch is clearly described by Thaler in column 3. Thaler could not have been more clear in stating that the requirement for two switches is a fundamental principle of the '331 patent.

One of skill in the art would not reasonably conclude that the broadest interpretation of "a (singular) commonly actuatable switch" would read on the collar plus trigger arrangement described by Thaler because the simple and plain meaning of "a commonly actuatable switch" is supported in every sense by the present specification. Claim 1, as amended, recites a switch that is configured to be actuated selectively from the first or second handle grip 8, 9, by direct contact between the cold air combination switch and one finger of a hand on either the first handle grip (8) or the second handle

grip (9). This language unambiguously specifies that no connecting mechanism is involved in any manner of activating the electronic switch, as disclosed by Thaler.

In view of the foregoing arguments, Applicant respectfully requests that the rejection of claims 1, and 5-9 under 35 U.S.C. 102(b) be withdrawn.

Claims Rejections 35 U.S.C. 103

Claims 1, 5-7, and 9 are newly rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler (US 5,727,331) in view of Thaler (US 4,711,988).

Claims 2-4 remain rejected under 35 U.S.C. 103(a) as being unpatentable over **Thaler** et al. (US 5,727,331) in view of **Wilson** (US 4,629,864).

Claims 2-4, which are newly rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler (US 5,727,331) in view of Thaler (US 4,711,988) and Wilson (US 4,629,864).

Claims 10-12 remain rejected under 35 U.S.C. 103(a) as being obvious over Thaler (US 5,727,331) in view of Berryman (US 3,612,824),

Claims 10-12 are newly rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler (US 5,727,331) in view of Thaler (US 4,711,988) and Berryman (US 3,612,824).

The Examiner's rejections have been carefully considered.

For the reasons articulated in the response to the rejections of claims 1 under 35 U.S.C. 102(b) hereinabove, Applicant argues that Thaler '331, alone or in combination with Thaler '988, does not teach or suggest the limitations recited in claim 1, as amended.

Thaler '331 is cited as teaching "a commonly actuatable...combination switch." Thaler '988 is cited only as teaching a cold air combination switch rather than a cold air switch.

Applicant observes that the rejections under 35 U.S.C. 103(a) all appear to rely upon the interpretation of "commonly actuatable cold air combination switch" as encompassing a collar (mechanical switch) plus trigger (electrical) switch as taught by Thaler '331 and in which an electrical trigger switch is depressed either by one finger from a hand on the handle grip or via a lever by one finger from a hand on the barrel grip. For example, in response to Appellants' argument regarding this issue, the Examiner replies that Appellants argue that the claimed hand hair dryer should be given a narrower meaning than construed by the Office. If Applicant's observation is not correct, Applicant respectfully requests clarification on this point.

Applicant respectfully submits that one of skill in the art would not reasonably conclude that the broadest interpretation of "a (singular) commonly actuatable switch" would read on the collar plus trigger arrangement described by Thaler because the simple and plain meaning of "a commonly actuatable switch" is supported in every sense by the present specification.

Nevertheless, and solely for the purpose of advancing prosecution of the application, claim 1 is amended to recite a switch that is configured to be actuated selectively from the first or second handle grip 8, 9, by direct contact between the cold air combination switch and one finger of a hand on either the first handle grip (8) or the

second handle grip (9). This language is supported by the specification as originally filed in FIGs. 6-8 and the corresponding description. Claim 1, as amended, unambiguously specifies that no connecting mechanism is involved in any manner of activating the electronic switch, as disclosed by Thaler '331.

Applicant argues that one of ordinary skill in the art, at the time the invention was made, would not have been motivated to replace the two switches taught by Thaler '331 with a single switch configured as recited in claim 1, as amended. Columns 1 and 2 in '331 teach that the hair dryers of the prior art do not allow users to control airflow rate and temperature when holding the hair dryer by the handle or the barrel and that this problem is solved by providing two switches, one on the handle and one on the barrel. Thaler '331 teaches that one of two switches can be a mechanical switch that is coupled to a single electrical trigger switch. Consequently, Thaler '331 unequivocally teaches that the problems associated with controlling airflow rate and temperature when holding the hair dryer by the handle or the barrel are solved.

No reference other than Thaler '331 in view of Thaler '988 is cited as teaching or suggesting a switch that is configured to be actuated selectively from the first or second handle grip by direct contact between the cold air combination switch and one finger of a hand on either the first handle grip or the second handle (barrel) grip. Consequently, none of the references alone, or in combination teaches or suggests a hair dryer having a cold air combination switch located/configured be activated directly direct contact with a finger of a hand on either the handle grip or the barrel.

In view of the amendment to claim 1 and the foregoing arguments, Applicant respectfully requests that the outstanding rejections of claims under 35 U.S.C. 103(a) be withdrawn.

Claims Rejections 35 U.S.C. 112, first and second paragraphs

Claim 7 is newly rejected under 35 U.S.C. 112, first paragraph, because the elements recited in the claim are recited in a way that was not described in the specification at the time the application was filed. The rejection has been carefully considered.

Claim 7 is newly rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite because claim 7 recites first and second cold air switches in addition to the commonly actuatable cold air combination switch recited in claim 1. The rejection has been carefully considered.

In response to the rejections of claim 7 under 35 U.S.C. 112, claim 7 is amended to recite a hair dryer in accordance with claim 1, and further comprising a first cold air switch (10) located on the first handle grip (8), and a second cold air switch (11) located on the second handle grip (9). This makes clear that, in addition to the combination cold air switch, the hair dryer comprises a first and a second cold air switch. Page 3, lines 25-30 describe the embodiment recited in claim 7, as amended.

In view of the amendment to claim 7 and the foregoing arguments, Applicant respectfully requests that the rejections of claim 7 under 35 U.S.C. 112, first and second paragraphs, be withdrawn

Conclusion

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call

in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Striker', is written over the printed name.

Michael J. Striker
Attorney for Applicant
Reg. No.: 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700